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DEPARTMENT FOR INL/FO AND SA/FO AMB QUINN
NSC FOR AHARRIMAN/KAMEND

E.O. 12958 N/A

TAGS: [SNAR](#) [PREL](#) [PGOV](#) [PTER](#) [KCRM](#) [AF](#)

SUBJECT: Justice Sector Support Project Progress Report

1. (U) Summary: In the July 2005 launch, the Chief of Team, three embedded advisors (two in the Ministry of Justice, one assigned to the Prison Director and one assigned to the Minister, and one in the Attorney Generals Office) and three legal experts (legal trainer, criminal justice, and criminal defense attorney mentor) arrived in Afghanistan. The fourth embedded advisor (Ministry of Interior and Attorney Generals Office Coordinator) arrived in early October. The cable highlights JSSPs accomplishments and significant findings to date. End Summary

Work with the Afghan Attorney Generals Office (AGO)

2. (U) JSSP has completed a comprehensive assessment of the AGO organization and operational capacity, including legal framework, organizational, resource and personnel constraints and limitations, mapping out and constructing a detailed organization chart of the AGO to understand the current structure and enable further work on structure. JSSP also contributed to the German Police Project Offices Police Guidelines for Discovery, Investigation and Coordination with the Investigating Prosecutors.

3. (U) JSSP is assisting the AGO in creating personnel records for all prosecutors in Afghanistan, containing data on their heir educational backgrounds, skills, and training received.

Provincial Justice Reform Projects

4. (U) JSSP spear-headed the Wardak Justice Reform Project, a multi-agency development effort bringing together USG and Afghan officials, from Kabul and Wardak, to improve and reform the criminal justice sector in the Wardak Province. The Project will bring the full spectrum of USG community resources (infrastructure projects, public education, training, etc.), along with international assistance, across all components of the Wardak justice system, resulting in an efficient system that functions and will serve as a model for other provinces. Subcommittees, under the guidance of JSSP experts and Afghan leaders, are developing and will implement a comprehensive strategy for increasing successful prosecutions and strengthening the organizational structure of the provincial prison. USAID will fund the building of a courthouse and CFC-A will fund the building of a new Prosecutors Office. In three months, the group will have a full understanding of the inmate population, along with a plan on how to address over-detention and other problems.

5. (U) Modeled after the Wardak project, the Ghazni Project was only recently initiated (December 2005). Future activities of this kind will launch in February/March.

Corrections

6. (U) JSSP coordinated the development of the design of the National Provincial Prisons-Detention Centers Survey. JSSP experts provided analysis and input on the criminal justice system aspects of the survey. The actual surveying, funded by CFC-A, was completed at the end of January and the final document is expected in February. Deputy Minister of Justice Hashimzai was provided a summary of the survey, for presentation at the London Conference in January.

7. (U) JSSP integrated nearly all USG and international corrections planning, construction and training into one Afghan-led working group. JSSP laid the foundation for the launching of the Corrections Sector Support Project (CSSP), which occurred in January 2006. A separate cable on the CSSP to follow.

Afghan Defense Attorneys

8. (U) JSSP is facilitating, in collaboration with Afghan NGOs, Afghan defense attorneys, and the international community, the creation of an independent, national and compulsory bar association in Afghanistan to assist in improving an attorneys ability to effectively advocate on behalf of the accused. Currently, a poorly maintained quasi-

mandatory licensing structure is within the competence of the Ministry of Justice, which negatively impacts the right to legal aid, in part due to the requirement that defense attorneys enter into a Sharia contract.

9. (U) JSSP has taken a leadership role in assisting Afghan defense attorneys organize and develop training curricula in order to improve due process in the criminal justice system. The first in a series of workshops was hosted by JSSP with th Afghan defense attorneys, initially providing them with a forum to discuss the difficulties they face when dealing with police and prosecutors, including widespread disregard for criminal procedure law, lack of qualified legal professionals at every level, violation of legal and human rights, and the routine use of torture and coercion against the accused.

10. (U) JSSP will be overseeing the work of Global Rights Legal Internship teams and mentors, providing professional training to improve capacity and skills.

Donor Funding

11. (U) JSSP facilitated a grant of \$400,000 from CFC-A to support Qanon Satonkay, an Afghan legal defense organization, to enhance capacity and improve its ability to offer services to needy Afghan clients.

Laws

12. (U) JSSP has assumed a leadership role in the revision of the draft Law on the Organization and Structure of the Attorney Generals Office (AGO). Persuaded by the JSSP Embedded Advisor to the AGO, the AGO formally withdrew the draft law from the legislative process to allow for the redress of multiple problems and allow for input from the international community. The Advisor was thereafter appointed to the internal AGO Committee responsible for drafting the law, where he has been able to successfully propose significant revisions, incorporating human rights standards to protect victims, American standards of prosecutorial independence, duties and protections, and provisions on appointment, tenure protections and qualifications of prosecutors, as well as standards to protect victims. Despite initial resistance, the Advisor has persuaded the AGO to consider forming vertical prosecutions and/or special divisions/task forces in specialized areas, such as, corruption and financial crimes, war crimes, and AGO investigation of prosecutor discipline and ethics violations. Resubmission of the law to the legislative process is expected within the next two months.

Criminal Procedure Code

13. (U) The JSSP, as a member of an internal working group, has been a major contributor in evaluating and proposing improvements to the Interim Criminal Procedure Code (ICPC). The group is articulating problems with the Code and drafting solutions, which will be presented to the Attorney General. JSSP is also coordinating comments and recommendations on the Code from professors at the Faculty of Law and Economics and the Sharia Faculty.

14. (U) Preparations are underway for the formation of a working group, to be comprised of Afghan and international experts, to draft a new Criminal Procedure Code. JSSP has been invited to participate in that working group.

Legal Education and Training

15. (U) JSSP conducted an assessment of the training done by Afghans and international donors, what is needed, and the state of post-university legal education. The assessment revealed a number of misunderstandings and choke-points that must be addressed to create a functional Afghan criminal justice system. For example, formal legal education in Afghanistan has never been designed to produce a qualified entry-level prosecutor. Rather, a specialized, post-graduate training known as the stage was an additional requirement. However, during the years of conflict, the stage was destroyed. At the invitation of the AGO, JSSP is part of the team developing course materials and a model curriculum to reestablish the stage for prosecutors. The curriculum is expected to be approved by the AGO by mid to late February.

16. (U) The assessment also revealed that training received by prosecutors is of poor quality, unfocused, repetitive and oftentimes lacks an appreciation of both the substance and realities of Afghan law and practice, which is a result of the AGO having no control over or not tracking the training. At the invitation of the AGO, JSSP is part of the team developing oping standardized curriculum for prosecutors and in embedding an

AGO training committee, responsible for drafting standard operating procedures for approving and tracking curriculum, course materials, as well as, tracking attendees and trainers.

Training

17. (U) JSSP trainers have trained: 25-30 prosecutors on Advanced Investigation and Prosecuting Corruption & Financial Crimes (6 day program); 20 women defense lawyers on the functions and roles of an independent bar association (2 days); 15 law professors on the basic differences between the Afghan Interim Criminal Procedure Code and the U.N. approved Criminal Procedure Code and the effects on human rights (1 day); 25 prosecutors on Investigation and Prosecution of Rape, Sexual Assault and Domestic Violence under Afghan Criminal Procedure and Law (2 days); 22 private and government lawyers on Bar Governance (1 day); 25-30 private and government lawyers on Organizational Development (1 day); 25-30 private and government lawyers on Codes of Conduct and Professional Responsibility; nine law school professors and 3-4 selected law students on the form of analysis applied by Sharia scholars who support human rights (1 day); and 30 prosecutors on criminal procedure (7 day program).

18. (U) JSSP has led the development of the Governing Charter, as well as, operational aspects of the National Legal Training Center (NLTC), a multi-story training facility being constructed by the Italian government and UNOPS on the campus of the University of Kabul. JSSP will provide \$100,000 to furnish the facility upon completion of construction, expected November 2006.

19. (U) In support of the Supreme Courts initiative to reestablish the stage for judges, JSSP provided classroom supplies.

Other activities

20. (U) JSSP assisted the Minister of Justice in developing the Justice for All Framework (JFA), a 10-year justice sector strategy, which was approved by the GOA (Cabinet) in October 2005.

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21. (U) JSSP Experts are permanent members of Justice Consultative Working Groups (JCWG), created by the MOJ to draft legal benchmarks and indicators for his presentation at the London Conference, as well as for, inclusion in the Afghanistan National Development Strategy. The JCWG are also in the process of developing comprehensive strategies, including detailed analyses, cost analyses, and donor commitments, for the necessary reforms identified in the JFA.

22. (U) JSSP has been monitoring the case of an inmate death with implications of corruption at the highest level in the Kabul Police Station. JSSP is regularly called on by Embassy officials for legal assistance concerning the Afghan criminal justice sector.

Projects under development

23. (U) A functional AGO law library, including space, furniture, lamps, generator, photocopy machine, and translations of international standards, obscure Afghan criminal laws and government/administrative documents, and international criminal law conventions of concern to AGO prosecutors.

24. (U) Archive system and location, with file cabinets, files, to unite the disparate filing locations for each Department/Division within the AGO.

25. (U) Provide investigating prosecutors with cameras, film (or digital and printer) telephones and phone cards for communication with the police.

26. (U) Publication and distribution in Dari of applicable laws to all prosecutors, including the ICPC, 1965/1974 CPC (as some parts still used to fill gaps in the ICPC), 1976 Penal Code, various criminal laws (former and reformed), and various other laws needed, such as Government Procurement Laws.

27. (U) JSSP is developing a project proposal to translate international laws and treaties into Dari and Pashtu and publish 10,000 hard bound copies of these texts. Funding is being sought for this project.

28. (U) Comment: The JSSP is functional and has become fully entrenched in the Afghan justice sector, seeking to address gaps in training and to build institutional capacity in Afghanistans nascent judicial and prosecutorial institutions. INL is closely monitoring its efforts and will work with the

Chief of Party to ensure that the JSSP provides targeted assistance as outlined in the project plan. Post will provide regular progress reports on the work of the JSSP. End Comment.

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